

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Case No. 23-CR-146 (DG)

V.

Brooklyn, New York

June 20, 2023

RACHEL CHERWITZ,

Defendant.

\* \* \* \* \*

TRANSCRIPT OF CRIMINAL CAUSE FOR ARRAIGNMENT  
BEFORE THE HONORABLE CHERYL L. POLLAK  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government:

GILLIAN KASSNER, ESQ.  
LAUREN H. ELBERT, ESQ.  
Asst. United States Attorney  
United States Attorney's Office  
271 Cadman Plaza  
Brooklyn, NY 11201

For the Defendant:

JENNY KRAMER, ESQ.  
Alston & Bird  
90 Park Avenue, 15th Floor  
New York, NY 10016-1387

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transcript produced by transcription service.

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**Shelton, CT 06484 (203)929-9992**

1 (Proceedings commenced at 11:39 a.m.)

2 (Defendant present)

3 MS. KASSNER: Gillian Kassner and Lauren Elbert for  
4 the Government. Good morning, Your Honor.

5 THE COURT: Good morning.

6 MS. KRAMER: Good morning, Your Honor. Jenny  
7 Kramer with Alston & Bird here on behalf of Ms. Rachel  
8 Cherwitz.

9 THE COURT: All right. Good morning.

10 Ms. Cherwitz, I take it that you understand  
11 English?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. At any point something is said  
14 that you don't understand please let me know. All right?

15 THE DEFENDANT: Okay.

16 THE COURT: You're here because the grand jury has  
17 returned an indictment charging you within or about and  
18 between 2006 and May 2018, both dates being approximate and  
19 inclusive, within the Eastern District of New York and  
20 elsewhere, you, together with others, did knowingly and  
21 intentionally conspire to, one, provide and obtain the labor  
22 and services of one or more persons by means of and by a  
23 combination of means of force, threats of force, physical  
24 restraint and threats of physical restraint to a person; two,  
25 serious harm and threats of serious harm to a person; three,

1 the abuse and threatened abuse of law and legal process; and  
2 four, one or more schemes, plans and patterns intended to  
3 cause a person to believe that if he or she did not perform  
4 such labor and services the person would suffer serious harm  
5 and physical restraint in violation of the United States law.

6 And that you benefitted financially by receiving  
7 things of value from participation in a venture which has  
8 engaged in the providing or obtaining of labor or services by  
9 any such means knowing and in reckless disregard of the fact  
10 that the venture having engaged in the providing and  
11 obtaining of labor and services by any such means again in  
12 violation of United States law.

13 Ms. Cherwitz, first of all, do you understand what  
14 a conspiracy is?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay. Basically it is an agreement  
17 between two or more people to engage in some form of unlawful  
18 activity.

19 In this case you're charged (indiscernible) forced  
20 labor and to obtain profits as a result of that.

21 Do you understand what you are being charged with?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, Counsel, I assume that you are  
24 retained in this matter?

25 MS. KRAMER: Yes, I am.

1 THE COURT: So, Ms. Cherwitz, if for some reason  
2 you could not afford to pay for counsel, the Court would  
3 appoint an attorney to represent you. That is because you  
4 have the right to be represented by an attorney in connection  
5 with these charges from this point forward.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. Have you discussed the charges  
9 in the indictment with your attorney?

10 THE DEFENDANT: I have, yes.

11 THE COURT: Okay. Counsel, do you have any concern  
12 about whether or not Ms. Cherwitz understands the charges?

13 MS. KRAMER: I do not, Your Honor.

14 THE COURT: All right. Is she prepared to enter a  
15 plea at this time?

16 MS. KRAMER: She is, Your Honor. And she enters a  
17 plea of not guilty.

18 THE COURT: Okay. Do we have a date for Ms.  
19 Cherwitz to appear before Judge Gujarati?

20 MS. KASSNER: Yes, Your Honor. It's tomorrow, June  
21 21st at 10 a.m.

22 THE COURT: Okay. What are we going to do with  
23 respect to the issue of bail for Ms. Cherwitz?

24 MS. KASSNER: Your Honor, Ms. Cherwitz appeared  
25 earlier in court in California and I think that the terms of

1 that bond are going to remain largely unchanged.

2 With the exception that there's a no contact  
3 provision that we would like to modify today as reflected on  
4 a bond that the deputy has.

5 The no contact provision will provide that the  
6 defendant shall have no contact outside the presence of her  
7 attorneys with her co-defendant, known co-conspirators, or  
8 any known alleged victims of the offenses charged in the  
9 indictment.

10 And in the event there's confusion about whether  
11 somebody falls in those categories, the defendant should  
12 consult with Pretrial Services.

13 And then the defendant should refrain from speaking  
14 about any person's potential testimony in this pending  
15 criminal case with any current or former employees,  
16 contractors, consultants or members of OneTaste, Inc. except  
17 in the presence of counsel.

18 THE COURT: Okay. You said she should consult with  
19 Pretrial. I mean, does Pretrial have a list of the  
20 individuals with whom she is not to have any contact?

21 MS. KASSNER: I think Pretrial and the Government  
22 can consult with the Government and we can alert the  
23 defendant if there's anybody who she wishes to speak to that  
24 we think there's an issue with and then we can hopefully  
25 resolve it and if needed raise it with the Court.

1 THE COURT: Does that work for Counsel?

2 MS. KRAMER: It does, Your Honor.

3 I think adding the word known in front of co-  
4 conspirators, to the extent there's any confusion, we have  
5 agreed to bring that confusion to Pretrial's attention and  
6 we'll go from there.

7 THE COURT: Okay. As long as you all are in  
8 agreement and feel you can resolve these issues, that's fine.

9 So the bond is in the amount of \$300,000. It's to  
10 be co-signed by Nancy Coleman and Matthew Pelletier.

11 MS. KASSNER: That's correct, Your Honor.

12 THE COURT: Are they in the courtroom?

13 MS. KASSNER: Mr. Pelletier is in the courtroom.  
14 And Ms. Coleman is available by phone. She is in California.

15 THE COURT: Okay. Do we have a phone number? Can  
16 we get her on the phone?

17 MS. KASSNER: We do have a phone number.

18 (Pause)

19 THE COURT: Mr. Pelletier, if you wouldn't mind  
20 stepping up to the podium here, please. Thank you.

21 (Pause during inaudible telephone conversation)

22 (Suretors Sworn)

23 THE COURT: All right. Good morning. This is  
24 Judge Pollak. Ms. Coleman, if you can't hear me, please  
25 shout out and let me know.

1           The bond is in the amount of \$300,000. If Ms.  
2           Cherwitz should fail to come back to court at any time when  
3           she's required to be here the bond will be revoked and she  
4           will be rearrested and the Government can come after the two  
5           of you for the amount of the bond, that's the \$300,000.

6           So I want to first find out a little bit of  
7           information about you.

8           Ms. Coleman, what is your relationship to Ms.  
9           Cherwitz?

10          MS. COLEMAN: Her friend.

11          THE COURT: Okay. How long have you known her?

12          MS. COLEMAN: Ten years.

13          THE COURT: Okay. And do you work?

14          MS. COLEMAN: Yes.

15          THE COURT: What do you do for a living?

16          MS. COLEMAN: (Inaudible) and I'm a project manager  
17          for a non-profit.

18          THE COURT: Okay. And approximately how much do  
19          you make a year?

20          MS. COLEMAN: Fifty thousand.

21          THE COURT: Okay.

22          And, Mr. Pelletier, how do you know the defendant?

23          MR. PELLETIER: I'm her husband.

24          THE COURT: Okay. And are you employed?

25          MR. PELLETIER: Yes.

1 THE COURT: What do you do for a living?

2 MR. PELLETIER: I'm a (indiscernible) manager for  
3 (indiscernible).

4 THE COURT: Okay. And approximately how much do  
5 you make a year?

6 MR. PELLETIER: (Inaudible)

7 THE COURT: Okay. So I want to make sure you both  
8 understand that if she abides by the conditions of the bond,  
9 comes back to court, there will be no ramifications for you.

10 But if she does not come back to court the  
11 Government can seize your assets up to \$300,000. That means  
12 if you own a home or you have a car, bank account, stocks,  
13 bonds, anything like that, the Government can seize them up  
14 to that \$300,000 amount.

15 And if you don't have assets that equal that  
16 amount, the Government can garnish your wages, which is why I  
17 was asking you how much you make a year. That means that  
18 every time you get your paycheck the Government will take a  
19 certain amount out until the \$300,000 amount is reached.

20 Ms. Coleman, do you understand that?

21 MS. COLEMAN: Yes.

22 THE COURT: Mr. Pelletier, do you understand that?

23 MR. PELLETIER: Yes, Your Honor.

24 THE COURT: Okay. So by signing this bond you are  
25 both telling me that you're going to make sure that Ms.



1 Cherwitz makes all of her court appearances.

2 And you understand the risk you run, if she decides  
3 to come back to court, you could end up owing the Government  
4 \$300,000.

5 Knowing that, Ms. Coleman, are you willing to sign  
6 the bond?

7 MS. COLEMAN: Yes, Your Honor.

8 THE COURT: And, Mr. Cherwitz[sic], are you willing  
9 to sign the bond?

10 MR. PELLETIER: Yes, I am.

11 THE COURT: Okay. Now, Ms. Coleman, normally you'd  
12 be here in the courtroom. We would hand the bond over to you  
13 to actually put your signature on it, but obviously since  
14 you're in California I can't do that.

15 Would you authorize me to sign your name to the  
16 bond?

17 MS. COLEMAN: Yes, I do.

18 THE COURT: Okay. And, Mr. Pelletier, I'm going to  
19 ask you since you're here if you could actually sign the  
20 bond.

21 (Pause)

22 THE COURT: You can take your seat, sir. Thank  
23 you.

24 So, Ms. Cherwitz, you've heard what will happen to  
25 your friend and to your husband if you don't come back to

1 court. They could lose up to \$300,000.

2 What will happen to you if you don't make your  
3 court appearance is that, as I said, you will be rearrested  
4 and at that point you will be thrown in jail until the trial  
5 on these charges.

6 Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: You also face the possibility that the  
9 Government will bring additional charges against you for the  
10 separate crime of bail jumping. That's a separate felony  
11 offense, carries its own separate term of poisoning. What  
12 that means is you could actually be acquitted, found not  
13 guilty of the charges in the indictment, and yet end up going  
14 to jail for a significant period of time simply because you  
15 didn't come back to court when you're supposed to be here.

16 Do you understand that?

17 THE DEFENDANT: I do.

18 THE COURT: Okay. You also need to (indiscernible)  
19 crimes while you're on bond. If you commit a crime while out  
20 on bond that's grounds for revoking your bond, increasing  
21 your punishment under the existing charges, and of course  
22 bringing new charges against you for whatever new crime you  
23 are alleged to have committed.

24 Do you understand that?

25 THE DEFENDANT: I do.

1 THE COURT: Okay. Finally, you are not to threaten  
2 or attempt to influence the testimony of any person who you  
3 think might be a witness against you in this case. If you do  
4 that, that's grounds for revoking bond, increasing your  
5 punishment under these charges, and bringing charges of  
6 witness tampering or obstruction of justice against you.

7 Do you understand that?

8 THE DEFENDANT: I do.

9 THE COURT: Okay. So as the Assistant U.S.  
10 Attorney discussed previously there are a number of  
11 additional conditions here.

12 You are to submit to Pretrial Services. And I  
13 think you will be supervised out in California. They will  
14 tell you when and how you are to report. You are to  
15 surrender any passports.

16 Does she have a passport?

17 MS. KRAMER: Your Honor, she surrendered her  
18 passport in California.

19 THE COURT: Okay. All right. Great.

20 And I'm going to direct you, if it wasn't already  
21 done, to not obtain another passport or travel document until  
22 these charges are resolved.

23 Do you understand that?

24 THE DEFENDANT: I do.

25 THE COURT: Okay. You're not to leave the New York

1 City area or the Northern District of California except  
2 obviously to travel back and forth for work.

3 And you're not to have any contact with your co-  
4 defendant or any known co-conspirators unless counsel is  
5 present.

6 Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: Okay. And finally I think I've already  
9 said this but you're not to have any discussions with people  
10 who might be providing testimony in this case, that includes  
11 current or former officers of the company, contractors,  
12 consultants or other members of OneTaste. Again, unless  
13 counsel is present.

14 Do you understand that?

15 THE DEFENDANT: I do.

16 THE COURT: All right.

17 (Pause)

18 THE COURT: Okay. Anything else today?

19 Counsel?

20 MS. KASSNER: Yes, Your Honor. One further matter.

21 The Government would request, even though the  
22 status conference is tomorrow, we would request an order of  
23 excludable delay between today and tomorrow so that the  
24 parties can enter into a protective order, exchange  
25 discovery, and see if a resolution of the case short of trial

1 is possible.

2 And for those reasons the Government would submit  
3 that it's in the interest of justice.

4 THE COURT: All right. Counsel, do you have any  
5 objection to this?

6 MS. KRAMER: No objection. And we executed that  
7 order this morning.

8 THE COURT: So basically, Ms. Cherwitz, under the  
9 Constitution and the laws of the United States you're  
10 entitled to speedy and public trial by jury within 70 days of  
11 the filing of the indictment, that's the formal charges that  
12 we just talked about a minute ago.

13 If the Government fails to bring you to trial  
14 within that 70-day time period, that could even be the basis  
15 for you to dismiss the charges against you.

16 What the Government's attorney and your attorney  
17 are asking me to do is to enter an order excluding the time  
18 from today until you appear before Judge Gujarati tomorrow to  
19 take that one day out of that 70-day period so that there's  
20 time for the attorneys to engage in an exchange of  
21 information about the case and possibly discuss a potential  
22 plea.

23 Do you understand all of that?

24 THE DEFENDANT: I do.

25 THE COURT: Do you wish me to enter this order of

1       excludable delay?

2               THE DEFENDANT:   Yes.

3               THE COURT:   Okay.   All right.   And I'll note that  
4       it's been signed by counsel for the defendant, by the  
5       defendant, and by the Assistant U.S. Attorney, and I'm  
6       endorsing it as well.

7               Okay.   All right.   So I'm required to advise the  
8       prosecution to comply with its obligations under *Brady vs.*  
9       *Maryland* and it's progeny to disclose to the defense all  
10      information whether admissible or not that is favorable to  
11      the defendant, material either to guilt or punishment and  
12      known to the prosecution.

13              Possible consequences for non-compliance may  
14      include dismissal of individual charges or the entire case,  
15      exclusion of evidence and professional discipline or court  
16      sanctions on the attorneys responsible.

17              I will be entering a written order more fully  
18      describing this obligation and the possible consequences of  
19      failing to meet it and I direct the prosecutors to review and  
20      comply with that order.

21              Can you confirm that you understand your  
22      obligations and will fulfill them?

23              MS. KASSNER:   Yes, Your Honor.

24              THE COURT:   Anything else?

25              MS. KRAMER:   Nothing, Your Honor.   Thank you.

1 THE COURT: All right.

2 MS. KASSNER: Not from the Government. Thank you.

3 (Proceedings concluded at 11:59 a.m.)

4 I, CHRISTINE FIORE, court-approved transcriber and  
5 certified electronic reporter and transcriber, certify that  
6 the foregoing is a correct transcript from the official  
7 electronic sound recording of the proceedings in the above-  
8 entitled matter.

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June 26, 2023

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Christine Fiore, CERT

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